

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
FLORENCE DIVISION

Randolph Martin,) C/A No. 4:18-cv-03332-DCC
vs.)
Plaintiff,)
Florence County Sheriff's Department and) ORDER
Deputy Sullivan,)
Defendants.)

In accordance with 28 U.S.C. § 636(b) and Local Civil Rule 73.02(B)(2), (D.S.C.), this matter was referred to United States Magistrate Judge Thomas E. Rogers, III, for pre-trial proceedings. On January 2, 2019, Defendants filed a Motion to Dismiss. ECF No. 10. On the same day, this Court issued an Order pursuant to *Roseboro v. Garrison*, 528 F.2d 309 (4th Cir. 1975), in which Plaintiff was advised of the summary judgment/dismissal procedure and the possible consequences if he failed to respond adequately. ECF No. 11. Despite this explanation, Plaintiff did not respond to the Motion.

On February 26, 2019, the Magistrate Judge issued a Report and Recommendation (“Report”) recommending dismissal of this action pursuant to Rule 41(b) of the Federal Rules of Civil Procedure because Plaintiff failed to prosecute his case. ECF No. 13. The Magistrate Judge advised Plaintiff of the procedures and requirements for filing objections to the Report. *Id.* Plaintiff failed to file objections or update his address and the time to do so has lapsed.

The Magistrate Judge makes only a recommendation to this Court. The

recommendation has no presumptive weight, and the responsibility to make a final determination remains with the Court. *See Mathews v. Weber*, 423 U.S. 261 (1976). The Court is charged with making a *de novo* determination of any portion of the Report of the Magistrate Judge to which a specific objection is made. The Court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or recommit the matter to the Magistrate Judge with instructions. *See* 28 U.S.C. § 636(b). The Court will review the Report only for clear error in the absence of an objection. *See Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (stating that “in the absence of timely filed objection, a district court need not conduct a *de novo* review, but instead must only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” (citation omitted)).

After considering the record in this case, the applicable law, and the Report of the Magistrate Judge, the Court finds no clear error and agrees with the Report’s recommendation. Accordingly, the Court adopts and incorporates the Report by reference in this Order. This action is **DISMISSED** with prejudice pursuant to Rule 41(b) for failure to prosecute.

IT IS SO ORDERED.

s/ Donald C. Coggins, Jr.
United States District Judge

May 13, 2019
Spartanburg, South Carolina

NOTICE OF RIGHT TO APPEAL

The parties are hereby notified of the right to appeal this order pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.